HONOURABLE SRI JUSTICE S.RAVI KUMAR

CRIMINAL REVISION CASE No.137 OF 2007

Dated 19-9-2014

Between:

K.Venkata Rao and others.

..Petitioners.

And:

The Deputy Commissioner (Legal), Central Excise, Hyderabad-1, Commissionerate Head quarters Office, Hyderabad, represented by its Special Public Prosecutor, High Court of A.P., Hyderabad.

…Respondent.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

CRIMINAL REVISION CASE No.137 OF 2007

ORDER:

This revision is against judgment dated 29-12-2006 in Criminal Appeal No.191 of 2004 on the file of Metropolitan Sessions Judge, Hyderabad whereunder judgment dated 19-6-2004 in C.C.No.288 of 2001 on the file of Special Judge for Economic Offences, Hyderabad, is confirmed.

Petitioners herein are A.2, A.4 and A.6.

Heard both sides.

The main argument of the learned counsel for petitioners is that as per Settlement Commissioner's order dated 15-3-2005, petitioners have already paid additional liability of Rs.81,11,962-54 ps. and no further liability is due from the petitioners and therefore, this order is an important document to be considered on behalf of petitioners and to enable the petitioners to mark this document, the matter may be remitted back to the Metropolitan Sessions Judge for reconsideration.

It is further submitted that there are other contentions also which have to be considered namely, exemption

given under notification No.60 of 1991 is in respect of final product of Rock-Wool and there is no material to show that analysis was done for the Rock-Wool to ascertain whether the “Fly-Ash”, as required, is there or not and these aspects have to be considered afresh.

It is also contended that the exemption given under notification No.60 of 1991 was in the year 1992 and the final product was supplied only to Government Organizations and there was no complaint from any of the users with regard to quality of final product and these aspects also have to be considered.

Learned counsel for the respondent submitted that the order of the Settlement Commissioner is not in dispute and that parties have paid back the amount settled and the order dated 15-3-2005 was not filed before appellate court and that he would leave the matter to the discretion of the court.

Considering the submissions of both sides, gravity of offence and nature of allegations, I feel that an opportunity should be given to petitioners to put forth all their contentions including the order of the Settlement Commissioner dated 15-3-2005, so that, the appellate court can correctly analyze the case to decide whether the revision petitioners have committed any offence or not.

For these reasons, the judgment of the Metropolitan Sessions Judge dated 29-12-2006 is set aside and the matter is remitted back by exercising powers under Section 401 Cr.P.C. with a direction to appellate court to permit the petitioners to urge all grounds raised herein and to consider proceedings of the Settlement Commissioner and to decide the matter afresh after hearing both sides and decide the appeal on merits.

Since the alleged offence is of the year 1992, I feel that time frame has to be fixed to the appellate court and therefore, Metropolitan Sessions Judge, is directed to

dispose of the appeal within two months from the date of receipt of copy of this order and both parties shall appear before Metropolitan Sessions Judge, Hyderabad on 8-10-2014 and no further notice is required to both parties.

Accordingly, this Criminal Revision Case is disposed of.

As a sequel to the disposal of this revision, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

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_____ JUSTICE S.RAVI KUMAR

Dated 19-9-2014.
Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dated 19-9-2014

Dvs